

Congress of the United States
House of Representatives
Washington, DC 20515

February 27, 2003

The Honorable John N. Erlenborn
President
The Legal Services Corporation
750 First Street, N.E., 10th Floor
Washington, D.C. 20002-4250

Re: Teleconference Call by the Holdover-LSC Board to Adopt Final Regulations

Dear Mr. Erlenborn:

This letter follows up on Chairman Sensenbrenner's January 30, 2003 letter regarding the implementation of new rules for 45 C.F.R. 1604, relating to the outside practice of law by full-time legal services attorneys, and 45 C.F.R. 1611, relating to the financial eligibility for clients receiving LSC-funded legal services. We are surprised to learn that the holdover LSC Board of Directors plans to hold a teleconference call very soon to vote on final implementation of these regulations.

According to a report in the February 7, 2003 National Legal Aid and Defender Association's update, LSC Board Operations and Regulations Committee Chairman John Broderick "signaled his intention to convene a teleconference call of the committee in late February" when he stated publicly at January's Board meeting that "[the current Board] is required to [act] and . . . the "[Committee] ha[s] a responsibility to act" on the proposed regulations. To the contrary, the Board has a responsibility not to promulgate regulations that are inconsistent with existing law and not to rush such regulations through at a time when the Board's tenure is plainly short-lived.

Such action would also be contrary to your public commitment expressed in your January 30, 2003 statement that you would "certainly honor the Chairman's request [to delay action on the regulations] in order to provide the committee with additional information and answer any outstanding questions." Despite this representation, the House Judiciary Committee has not received any information on how the proposed regulations, if passed as currently drafted, would not violate the express provisions of the Legal Services Corporation Act of 1974 (Pub. L. No. 93-55), and the subsequent restrictions adopted in the 1996 appropriations Act (Pub. L. No. 104-134). Moreover, we see no plausible explanation for the holdover Board of Directors to take final action on regulations, which will have a lasting impact upon the LSC and its grantees,

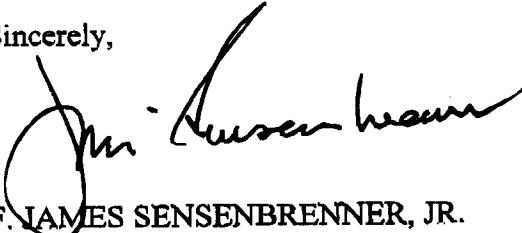
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immediately prior to the appointment of a new Board.


Before the Board issues any new regulations, we ask the LSC Board of Directors and the Corporation's General Counsel provide us with a full and complete explanation of (1) how the proposed changes to the existing regulations do not violate the law; (2) why the changes are necessary; and (3) why new regulations must be issued immediately before a new Board is appointed. In the meantime, the Board should postpone indefinitely any further consideration of the regulations.

Thank you, in advance, for your compliance with our request. If you should have any further questions or concerns, please contact Patricia DeMarco, Oversight Counsel, at (202) 225-3926.

Sincerely,



F. JAMES SENSENBRENNER, JR.
Chairman, House Committee on the Judiciary



SENATOR JUDD GREGG
Chairman, Senate Health, Education, Labor
and Pensions Committee
Chairman, Senate Commerce, Justice, State,
and Judiciary Appropriations Subcommittee

FJS/pfd

Enclosure: January 30, 2003 letter to President Erlenborn

cc: Frank Wolf, Appropriations
Alberto Gonzales, Office of White House Counsel
Clay Johnson, Office of Presidential Personnel
Lillian R. BeVier
Robert J. Deiter
Thomas A. Fuentes
Michael McKay
Frank B. Strickland
Florentino Subia